

02-628 FREW v. HAWKINS

Ruling below: CA 5, 300 F.3d 530.

QUESTIONS PRESENTED

This case involves the Early and Periodic Screening Diagnosis and Treatment (EPSDT) component of the Medicaid Act. 42 U.S.C. §§ 1396a(a)(43); 1396d(r). Another case pending before this Court also involves EPSDT. *Haveman v. Westside Mothers*, No.02-277 . If the Court grants a writ of certiorari in that case to address questions related to this case, the Petitioner-children ask the Court to suspend this case pending resolution of the other.

1. Do State officials waive Eleventh Amendment immunity by urging the district court to adopt a consent decree when the decree is based on federal law and specifically provides for the district court's ongoing supervision of the officials' decree compliance?

2. Does the Eleventh Amendment bar a district court from enforcing a consent decree entered into by State officials unless the plaintiffs show that the "decree violation is also a violation of a federal right" remediable under § 1983 ?

~~3. Does State officials' failure to provide services required by the Medicaid Act's EPSDT provisions violate rights that Medicaid recipients may enforce pursuant to 42 U.S.C. § 1983? See 42 U.S.C. §§ 1396a(a)(43); 1396d(r).~~

CERT. GRANTED: 3/10/03

Limited to questions 1 and 2 presented by the petition.